

Electricity interconnector
licensees, developers and
interested stakeholders

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Date: 12 January 2024

Dear stakeholders,

Decision on the Methodology for the Use of Congestion Income for relevant Electricity Interconnectors

This letter details Ofgem's assessment and acceptance of the methodology proposed¹ by a Working Group of Great Britain (**GB**) electricity interconnector transmission system operators (**TSOs**), for the allocation of congestion income referred to in Article 19 of Regulation (EU) 2019/943 as amended by Regulation 7 and paragraph 18 of Schedule 4 of the Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (2020 No. 1006) (the "**Retained Electricity Regulation**").

Background

The current requirements for the use and reporting of interconnector revenue generated by congestion management processes (**Congestion Income**) have their origins in European Union (**EU**) regulation. This legislation obligated EU TSOs to develop a methodology for the use of such income in accordance with the objectives of Article 19 of Regulation (EU) 2019/943² of the European Parliament and the Council (the "**EU Regulation**").

¹ Proposed Methodology from GB TSOs hosted on the IFA/IFA2 website:
<https://ifa1interconnector.com/media/1377/gb-use-of-rev-methodology-for-consultation.pdf>

² Regulation (EU) 2019/943 of the European Parliament and the Council of 5 June 2019 on the internal market for electricity <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0943>

EU methodology

Article 19 of the EU Regulation established rules for the use of Congestion Income and the revenue allocation requirements.

The ambition of these requirements was to enable EU Member States to achieve a target electricity interconnector capacity of 15% of total generation capacity by 2030, as set out in EU Regulation 2018/1999.³

A requirement of Article 19(4) of the EU Regulation is that any use of Congestion Income, in accordance with prescribed priority objectives, shall be subject to a methodology proposed by the TSOs after consulting the relevant regulatory authorities and stakeholders, and after approval by the EU Agency for the Cooperation of Energy Regulators (**ACER**).

In April 2021, ACER published their decision to approve a methodology proposed and consulted upon by EU TSOs.⁴

Article 19(5) requires EU TSOs to report the actual use of their income to the relevant regulatory authority, which will then inform ACER and publish a report setting out the amount of revenue earned in the 12-month period ending on 31 December of the previous year. Furthermore, the report will set out how the revenue was used in line with the priority objectives and other uses outlined above.

GB Methodology

Following the United Kingdom's withdrawal from the EU, Article 19 was largely retained in UK law as part of the Retained Electricity Regulation. So too was the requirement for GB TSOs to develop a methodology outlining the conditions under which revenues can be used to meet the priority objectives, and the conditions under which those revenues may be placed on a separate internal account line for future use and for this methodology to be approved by Ofgem.

Article 19 goes on to require Ofgem to publish:

- the amount of revenue collected,

³ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action [EUR-Lex - 32018R1999 - EN - EUR-Lex \(europa.eu\)](#)

⁴ ACER Decision 38-2020 [Microsoft Word - ACER Decision on use of Congestion Income methodology \(europa.eu\)](#)

- how that revenue was used (including the amount placed on a separate internal account line),
- the amount used to calculate network tariffs, and
- verification that the amounts are compliant with the Retained Electricity Regulation and any approved methodology.

Methodology development process

In 2022, a working group of GB interconnector TSOs was created to develop a proposed methodology (the "**Proposal**"), to be approved by Ofgem. This working group had several exchanges with Ofgem during the drafting process to refine details of the Proposal.

The working group published the Proposal for public consultation on 14 June 2022,⁵ for a period of 28 days. The consultation was:

- Signposted at the GB interconnector forum (**GBIF**), following which it was sent, by email, to the GBIF circulation list and to Ofgem;
- Sent by Ofgem to additional identified relevant stakeholders known not to be currently on the GBIF circulation list; and
- Published on the interconnector websites of IFA/IFA2, Nemo Link, and Moyle (Mutual Energy).

The working group received one formal response to the consultation from ElecLink Limited, which operates an interconnector between GB and France. The response is reproduced here:

"...this is to confirm that ElecLink does not have any comments on the proposed GB Use of Income Methodology, on the basis that it will not apply to us pursuant to Article 1(4) of the Methodology, namely: 'For the avoidance of doubt, the Methodology shall not apply to a GB interconnector TSO that has been issued with an Electricity Interconnector Licence in which standard licence condition 9 is suspended from operation.' "

It is noted that several GB interconnectors are not subject to the provisions in Standard Licence Condition 9 (SLC9) of the electricity interconnector licence pertaining to use of revenues and, therefore, Article 19 of the Retained Electricity Regulation does not apply to them for the duration of any arrangement that suspends the operation of that condition.

⁵ Consultation on Proposed GB Use of Congestion income Methodology [Consultation - IFA - Interconnexion France-Angleterre \(ifa1interconnector.com\)](https://www.ofgem.gov.uk/consultation/ifa1interconnector.com)

To add, the provisions of the Retained Electricity Regulation on the Use of Congestion Income do not affect ElecLink Limited, as in April 2014 ElecLink Limited received an exemption⁶ from Article 16(6) of the Regulation (EC), with regard to the use of congestion revenues for the duration of 25 years. For the avoidance of doubt this means that the exemption order directs that, subject to the conditions set out in the Exemption Decision, the relevant part of SLC 9 of ElecLink's interconnector licence be switched off to reflect the Exemption Decision. This exemption was extended⁷ in July 2021 to account for the delay in operations.

Following the completion of the consultation period, the Working Group submitted the Proposal to Ofgem in October 2022 for our approval.

Methodology Requirements

The priority objectives of Article 19, to be reflected in the methodology, require interconnector TSOs to allocate revenue generated from Congestion Income to:

- (a) guaranteeing the actual availability of the allocated capacity including firmness compensation; or
- (b) maintaining or increasing cross-zonal capacities through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network investments that are relevant to reduce interconnector congestion.

Where the priority objectives set out above are adequately fulfilled, the revenues may be used as income to be considered by the relevant regulatory authority when approving the methodology for calculating network tariffs or fixing network tariffs, or both. The residual revenues are to be placed on a separate internal account line until such a time as it could be spent for the purposes set out in the priority objectives.

In GB, where interconnector owners are separately licensed companies, distinct from the onshore TSO, there is no requirement to retain Congestion Income for future investment, and the use of revenues are defined through the interconnector licence – either through a cap and floor regulatory regime or through exemptions approved by Ofgem. For clarity, the

⁶ Exemption: https://www.ofgem.gov.uk/sites/default/files/docs/2014/04/eleclink_decision_cover_letter.pdf

⁷ Exemption Extension: [Decision on ElecLink Limited's request to prolong the validity period of its exemption | Ofgem](#)

GB methodology only applies to the agreed percentage share of total interconnector revenue from Congestion Income received by the GB interconnector TSO.

Methodology Summary

A copy of the Proposal is provided as the Appendix to this document; this section provides a brief, high-level description, of the Proposal. Alongside the Proposal, the Working Group submitted an accompanying report to explain their approach to the drafting of the document and its objectives. We have incorporated some of this report into the following description of the Proposal.

In general, the Proposal was drafted to be as principles-based as possible and to avoid a prescriptive approach to categorising potential uses of Congestion Income, to reflect the nature of GB interconnector companies. For clarity, the Proposal only applies to revenues from Congestion Income, rather than total interconnector revenue, which includes other revenue streams such as revenues from capacity mechanisms and ancillary services.

The Proposal submitted to Ofgem consists of the following four articles:

Article 1 establishes the subject matter and scope of the methodology. It also includes, in paragraph 4, explicit reference to GB interconnector TSOs for whom Article 19 is not a requirement, due to SLC9 being suspended from operation.

Article 2 sets the cost categories for contributing to the priority objectives (a) and (b) of Article 19(2) of the Retained Electricity Regulation. A provision is also included in Article 2 2(a) of the Proposal for 'allowed returns in accordance with the applicable regulatory regime for that GB interconnector TSO' allocated to the purpose of Article 19(2)(a) of the Retained Electricity Regulation 'guaranteeing actual availability of allocated capacity'. This provision explicitly captures that returns permitted through the terms of the relevant regulatory regimes are included within the priority objectives.

Article 3 mirrors the requirements set out in SLC9, making clear that the reported values relate to revenues from Congestion Income (rather than total revenues).

Article 4 provides for the Authority to determine the implementation date of the methodology upon its approval.

Compliance of the Proposal

Regarding the procedural requirements, Article 19(4) of Retained Electricity Regulation requires the TSOs to consult Ofgem and relevant stakeholders before adopting the Proposal for the Use of Congestion Income methodology.

The TSOs launched a public consultation on 14 June 2022 where all stakeholders were invited to submit their comments on the proposed draft methodology until 26 July 2022. Moreover, TSOs had several exchanges with Ofgem during the drafting process.

Finally, on behalf of the TSOs, the Working Group submitted the Proposal to Ofgem on 11 October 2022. Therefore, in Ofgem's view, the submitted Proposal has met the procedural requirements of Article 19(4) of the Retained Electricity Regulation.

Regarding the substantive requirements, Article 19(4) of the Retained Electricity Regulation determines that the methodology shall set out at least the conditions under which the income can be used for the purposes referred to in paragraph 2 of the same Regulation, as well as the conditions under which this income may be placed on a separate internal account line for future use for those purposes, and for how long this income may be placed on such an account line.

The Proposal includes, as stated in its Article 1(1) concerning the subject matter and scope:

- the conditions under which Congestion Income may be used for the purposes referred to in Article 19(2) of the Retained Electricity Regulation,
- the conditions under which Congestion Income may be placed on a separate internal account line for future use for those purposes, and
- for how long Congestion Income may be placed on such an internal account line.

The Cap and Floor regime provides an investment route that ensures electricity interconnector projects are compliant with the approved methodology, alongside licensee-specific arrangements such as IFA's Use of Revenues framework.⁸

⁸ Ofgem website – IFA Use of Revenues framework.
<https://www.ofgem.gov.uk/publications/ifa-use-revenue-framework>

Decision

Pursuant to Article 19(4) of the Retained Electricity Regulation, and following consultation between the TSO working group, Ofgem and relevant stakeholders, Ofgem shall decide on whether to accept the Proposal and determine the date of implementation.

Following our assessment of the procedural and substantive requirements of Article 19 of the Retained Electricity Regulation, we are satisfied that the submitted GB Interconnector TSO's Use of Congestion Income Methodology meets all the requirements detailed therein. We therefore approve the Methodology, as detailed in the Appendix.

The Methodology shall apply to revenues from Congestion Income collected from 1 January 2024 and therefore reported by 31 January 2025.

If you have any questions on the content of this letter, please contact Lucy Bond (lucy.bond@ofgem.gov.uk).

Yours sincerely,



Stuart Borland
Deputy Director, Offshore Network Regulation